

BARBARA WONG
EXECUTIVE DIRECTOR



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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 12, 2009

TO: The Honorable Jon Riki Karamatsu, Chair of the House Judiciary Committee
The Honorable Ken Ito, Vice-Chair of the House Judiciary Committee
Members of the House Judiciary Committee

FROM: Barbara U. Wong, Executive Director
Campaign Spending Commission

SUBJECT: Testimony on H.B. No. 539, Relating to Campaign Financing¹

February 12, 2009
2:05 p.m. in Conference Room 325

Chair Karamatsu, Vice-Chair Ito, and Members of the House Judiciary Committee, thank you for the opportunity to testify on this bill.

H.B. No. 539 proposes several amendments which are intended to:

- Prohibit a "corporation or company" from making a campaign contribution from its treasury directly to a candidate or candidate committee; a noncandidate committee other than one established by the corporation or company; or a political party;
- Permit a corporation or company to contribute from its treasury not more than \$25,000 in each two-year election period to one noncandidate committee established by the corporation or company; and
- Allow a corporation's or company's noncandidate committee to make a campaign contribution directly to a candidate, candidate's committee, other noncandidate committee, or political party under the same conditions and restrictions as applicable to a "person".

The Campaign Spending Commission ("Commission") supports the apparent intent of this bill to clarify, among other things, reporting requirements by a corporation or company using its treasury funds for contributions because it would improve transparency, which is imperative to the integrity of the campaign finance process. "Requiring for-profit corporations to report contributions and expenditures not only fosters public confidence in government through a more

¹ The bill is a single referral to this Committee.

S.B. No. 181 is the companion bill and was referred to the Senate Committee on Judiciary and Government Operations, which has not scheduled a hearing on the bill.

informed electorate . . . , but also serves as a critical crosscheck for ensuring the accuracy and completeness of reporting by candidates and other recipients of corporate contributions.” Colorado Common Cause v. Meyer, 758 P.3d 153 (Colo. 1988).²

We also offer our recommendations as follows:

- We prefer the language in S.B. No. 2922, S.D.1, H.D.1, C.D.1 (2006) (except for the unlimited transfer of funds).
 - S.B. No. 2922 would accomplish the purposes of H.B. No. 539 with fewer statutory amendments.
 - Portions of H.B. No. 539 appear to be limited to a “contribution from its (corporation or company) treasury” and do not address either a nonmonetary contribution or expenditure by a corporation or company. S.B. No. 2922, however, applies to “all contributions and expenditures.” S.B. No. 2922 was passed by the Senate but the House recommitted the bill to the Conference committee.
 - While we take no position on the contribution cap, we note that this H.B. No. 539 provides a \$25,000 cap on contributions. This same approach was followed in H.B. No. 3131, H.D. 1 (2006), which was passed by the House, **and** H.B. No. 3131, H.D.1, S.D. 1, which was passed by the Senate. S.B. No. 2922, however, proposed allowing an unlimited transfer of funds.
- The effective date in section 4 should be clarified by specifying that the bill would be applicable to transfers, contributions, and expenditures occurring on or after the effective date of the bill, assuming the language of S.B. No. 2922 is adopted by the Committee.
- The Committee should include the provisions of H.B. No. 216 and H.B. No. 217, bills submitted at the request of the Commission, in this bill or the Committee should schedule a hearing on these two bills.

I. Background information regarding Act 203

Act 203, Session Laws of Hawaii 2005 (Act 203), amended Hawaii Revised Statutes (“HRS”) §11-204(b) as follows:

(b) No person or any other entity shall make contributions to a noncandidate committee, in an aggregate amount greater than \$1,000 in an election[; ~~except that in the case of a corporation or company using funds from its own treasury, there shall be no limit on contributions or expenditures to the corporation or company noncandidate committee~~].

² “[I]nformed public opinion is the most potent of all restraints upon misgovernment.” *Buckley v. Valeo*, 424 U.S. 1, 67, 96 S. Ct. 612, 658 (1976) (quoting *Grosjean v. American Press Co.*, 297 U.S. 233, 250, 56 S. Ct. 444, 449 (1936)). “[D]isclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity.” *Id.* at 67, 96 S. Ct. at 657 (1976). “Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.” *Id.* (quoting *L. Brandeis, Other People's Money* 62 (National Home Library Foundation ed. 1933)).

The Commission, based upon the change in the law, enforced a \$1,000 contribution limit from a corporation or company to its noncandidate committee during the primary election and \$1,000 during the general election. The enforcement of the law was challenged by the Charmaine Tavares Campaign and a contributor to her campaign.

The Second Circuit Court's ("Court") filed a Final Declaratory Judgment on August 10, 2007 in Charmaine Tavares Campaign v. Wong, Civil No. 06-1-0430(3). The Court ruled that corporations and other business entities may make contributions from their treasuries directly to candidates and candidate committees under HRS §11-204(a)(1)(C)³ without registering with the Commission and filing periodic reports.

The Commission appealed the Court's decision and filed its Opening brief on January 16, 2008 and its Reply Brief on February 28, 2008 with the Intermediate Court of Appeals.

II. Include the provisions of H.B. No. 216 and H.B. No. 217 in this bill or H.B. 215

The Committee should include the provisions of H.B. No. 216 and H.B. No. 217, bills submitted at the request of the Commission, in this bill or H.B. 215.

H.B. No. 216⁴ proposes to:

- Reinstatement language in HRS §11-209(a), that was deleted by Act 203, SLH 2005, to allow candidates for the office of prosecuting attorney to qualify for partial public financing;
- Increase the expenditure limits and amounts available to candidates who apply for partial public financing; and
- Remove the equalizing fund provisions in Act 244, SLH 2008, which established a pilot project for comprehensive public funding program for the county of Hawaii council elections beginning in 2010.

H.B. No. 217,⁵ among other things,

- Adds a grace period to the nonresident contributions in HRS §11-204.5;

³ This section, provides, in relevant part, as follows:

“(a)(1) No person or any other entity shall make contributions to:

(A) A candidate seeking nomination or election to a two-year office or to the candidate's committee in an aggregate amount greater than \$2,000 during an election period;

(B) A candidate seeking nomination or election to a four-year statewide office or to the candidate's committee in an aggregate amount greater than \$6,000 during an election period; and

(C) A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate's committee in an aggregate amount greater than \$4,000 during an election period.”

⁴ The companion bill is S.B. No. 94, which was referred to the Senate Judiciary and Government Operations Committee and the Senate Committee on Ways and Means. A hearing on this bill has not been scheduled.

⁵ The companion bill is S.B. No. 93 which was referred to the Senate Judiciary and Government Operations Committee, which scheduled a hearing on this bill on February 12.

The Honorable Jon Riki Karamatsu
Testimony regarding H.B. No. 539
February 12, 2009
Page 4 of 4

- Requires noncandidate committees to file a report in election years on July 31, which is the same filing date as candidate committees, to provide greater transparency and align the reporting between noncandidate committees and candidate committees; and
- Repeals the law relating to the short form report for a candidate, party, or committee whose aggregate contributions and expenditures in a reporting period each total \$2,000 or less.



February 12, 2009

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY
ON HB 539 RELATING TO CAMPAIGN CONTRIBUTIONS**

Thank you Chair Karamatsu and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) which has 380 transportation related members throughout the state.

Hawaii Transportation Association strongly supports this bill.

An association has a duty to advance its members' viewpoints, especially in the legislative arena. An association and other entities should be permitted to expend resources that are necessary to accomplish this duty.

Legislators can understand there is little that can be done with \$1,000 per election period. Members themselves can make contributions, but many small business members lack the financial strength to participate to a great degree, thus they rely on their association's overall fiscal budgeting and prioritizing to serve the industry.

Thank you.

From: Betty Gearen [bettygearen@hawaiiantel.net]
Sent: Wednesday, February 11, 2009 1:59 PM
To: JUDtestimony
Subject: Testimony in opposition to HB 539 Relating to Campaign Spending

Testimony for House JUD
Thursday February 12, 2009 at 2:05 p.m.
Room 325

To: Chair Jon Riki Karamatsu, Vice Chair Ken Ito, House Judiciary Committee

From: The Green House

Subject: Testimony in opposition to HB 539 Relating to Campaign Spending

Chair Karamatsu, Vice-Chair Ito, and members of the House Judiciary Committee. On behalf of The Green House, I wish to testify in opposition to HB 539.

For the past three years, Act 203 of the 2005 legislature has limited corporate contributions to political campaigns. We are aware that the interpretation of this law has not been resolved in the courts, but the legislature is attempting to clarify it by giving corporations much greater power than citizens.

Allowing corporations to fund candidates through their PACs greatly dilutes the impact of individuals on the political process. We do not know on what basis a democracy can allow corporations to make campaign contributions at all. The directors and officers of corporations have the same right as all other people to make such contributions as individuals. On what basis should they be given an additional opportunity, one not available to the general public, to direct money under their control to political campaigns through their corporation? Doing so gives those officers and directors more opportunity to influence politics than has the average citizen and seriously damages our democracy.

Moreover, this bill amends current law to make an exception for corporations, allowing them to donate 25 times as much to a PAC as an individual is allowed to donate. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizen in the political process.

It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

We urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

Thank you for your consideration of our concerns,
Betty Gearen
The Green House

224 Pakohana Street
Honolulu, HI 96813
524-8427



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS	MAILING ADDRESS		
Brien Hallet, President	Juliet Begley	Nancy Bey Little	Barbara Polk	PO. Box 61792
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Tom Horton, Secretary	Chuck Huxel	Jim Olson	Bart Dame (Alt)	

February 11, 2009

To: Chair John Riki Karamatsu
Vice Chair Ken Ito
House Judiciary Committee

From: Americans for Democratic Action/Hawai'i
Barbara Polk, Legislative Chair

Subject: **Testimony in opposition to HB 539 Relating to Campaign Spending**

Chair Karamatsu, Vice-Chair Ito, and members of the House Judiciary Committee. On behalf of Americans for Democratic Action/Hawai'i, I wish to testify in opposition to HB 539.

For the past three years, Act 203 of the 2005 legislature has limited corporate contributions to political campaigns. We are aware that the interpretation of this law has not been resolved in the courts and that the legislature is attempting to clarify it. However, this bill proposes to do so by giving corporations substantial priority over individuals in influencing our political processes through campaign contributions. We strongly oppose this attempt.

This bill would grant corporations an exception to the \$1000 limit on PAC contributions placed on individuals. It allows corporations to contribute 25 times as much as individuals. We do not understand on what basis the legislature would feel this is fair. After all, the directors and officers of corporations have the opportunity, as we all do, to make individual contributions of \$1000 to a PAC. Why should these individuals have an **any** additional chance to influence the political process by being able to direct corporate funds toward political candidates?

Given the importance of money in political campaigns, the priority this bill would give to corporate influence undermines our democracy, a fact recognized by most other states.

Twenty-one states now completely ban corporate contributions to PACs as well as directly to candidates. Another 14 states place limits on corporate PAC contributions—all but one have limits between \$500 and \$10,000 per election. Do we really want to be among the 16 most regressive states in the union?

We have just witnessed a national political campaign won by a candidate who emphasized the contributions of grass-roots constituents. Allowing corporations to fund candidates through their PACs greatly dilutes the impact of individuals on the political process, and moves counter to the change in political atmosphere that President Obama is seeking.

While we commend your attempt to clarify the current law, we urge you to amend this bill in the following ways to prohibit all financial participation in the election process by corporations:

Page 1, lines 6-7: Eliminate the words “other than one established by the corporation or company”.

Page 2, line 5: Eliminate the words, “Except as otherwise provided under paragraph 2”.

Page 3, lines 3- 8: Replace all wording following “candidate’s committee” with “or any non-candidate committee,” and delete lines 18-21

Page 4: Delete lines 1-8 and lines 18-22.

Page 5: Delete lines 1-9.

Page 7: Delete the words in line 4 following “political party” and all of lines 5-9.

In closing, I hope that you will choose to ride the wave of participatory democracy that is fast becoming the hallmark of the 21st century by deleting from this bill special privileges for corporations. Thank you for this opportunity to testify.



P.O. Box 22703 • Honolulu, Hawaii 96823 • (808) 286-2285 • info@commoncausehawaii.org

**House JUD Committee
Thursday 2/12/09 at 2:05PM in Room 325
House Bill 539**

TESTIMONY

Nikki Love, spokesperson, Common Cause Hawaii

Chair Karamatsu, Vice Chair Ito, and Committee Members,

I am testifying in strong **opposition to HB 539.**

This bill invites more corporate money into politics and would make Hawaii's campaign laws more obsolete. Campaign donations should come from people, not corporate treasuries. The current \$1,000 limit is more than enough money for a corporation to give. If we are going to change Hawaii's campaign finance law, it should be to reduce the amount of corporate money in the political process, not increase it.

This bill squanders a precious opportunity for citizen participation. Political campaigns are one of the few opportunities for citizens to get directly involved in the democratic process. As money becomes more important in campaigns, citizen participation matters less. By increasing the amount of corporate money in campaigns, this bill further diminishes the value of participation by ordinary citizens.

Let's move on to more interesting democracy topics. The most unfortunate aspect about this bill is that it takes precious time and energy from other good government bills we could be discussing. There are some great bills this session – election day voter registration, lobbyist disclosure reforms, open meeting improvements, just to name a few – that would move us forward into the future of democracy, not backward.

After the historic 2008 election, this is the moment to be thinking big about redefining government, democracy, and civic engagement. Instead, we're here rehashing the same topic as last year. Hundreds of citizens spoke loudly last year, sending legislators piles of testimony, emails, and online petitions. You listened, and wisely killed that bill, and we all thank you for it.

We urge you to abandon this attempt and instead look to BAN corporate money from Hawaii's politics. And then let's get on with moving Hawaii's democracy forward.

Mahalo.

karamatsu3-Leanne

From: Scott Foster [fosters005@hawaii.rr.com]
Sent: Wednesday, February 11, 2009 12:00 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Scott Foster
fosters005@hawaii.rr.com
3050 Kahaloa Place
Honolulu, HI 96822

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539 and I'm offended that we are having to debate such an onerous piece of legislation. What a pitiful waste of time.

karamatsu3-Leanne

From: Davin Kubota [davink@hawaii.edu]
Sent: Wednesday, February 11, 2009 4:55 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Davin Kubota
davink@hawaii.edu
4303 Diamond Head Road
Honolulu, HI 96816

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539

This bill would raise the current cap of \$1,000 on the amount of money corporations can give directly out of their treasuries to PACs by 250%!

Corporations already have too much influence on the lawmaking process and have an unfair advantage over the general public.

Twenty one states have already banned these types of corporate contributions.

By raising cap and allowing a tsunami of corporate money to flood legislators' campaigns, Hawaii would become the first state in U.S. history to move backwards on this issue -- allowing more money -- instead of moving forwards by banning this money.

Moreover, this bill amends current law to make an exception for corporations, allowing them to donate 25 times as much to a PAC as an individual is allowed to donate. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizen in the political process.

It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

We urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

karamatsu3-Leanne

From: Will Best [wbest@alum.haverford.edu]
Sent: Wednesday, February 11, 2009 6:34 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Will Best
wbest@alum.haverford.edu
1419 Dominis St. #1208
Honolulu, HI 96822

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539

This bill would raise the current cap of \$1,000 on the amount of money corporations can give directly out of their treasuries to PACs by 250%!

Corporations already have too much influence on the lawmaking process and have an unfair advantage over the general public.

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It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

We urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

karamatsu3-Leanne

From: Karin Gill [karingill@yahoo.com]
Sent: Wednesday, February 11, 2009 9:49 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Karin Gill
karingill@yahoo.com
4104 Round Top Drive
Honolulu, HI 96822

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539

This bill would raise the current cap of \$1,000 on the amount of money corporations can give directly out of their treasuries to PACs by 250%!

Corporations already have too much influence on the lawmaking process and have an unfair advantage over the general public.

Twenty one states have already banned these types of corporate contributions.

By raising cap and allowing a tsunami of corporate money to flood legislators' campaigns, Hawaii would become the first state in U.S. history to move backwards on this issue -- allowing more money -- instead of moving forwards by banning this money.

Moreover, this bill amends current law to make an exception for corporations, allowing them to donate 25 times as much to a PAC as an individual is allowed to donate. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizen in the political process.

It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

We urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

To: Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair
House Committee on Judiciary

From: Seth Corpuz-Lahne

RE: Strong opposition against HB 539, Relating to Campaign Contributions

Hearing: Thursday February 12, 2009
Conference Room 325
2:05 PM

Chair Karamatsu, Vice-Chair Ito, members of the House Judiciary Committee, thank you for this opportunity to testify in strong opposition to HB 539. In 2005 the State of Hawaii took a giant stride forward by restricting corporate contributions to their PACs to the same \$1,000 that every other "person" is capped at. This bill proposes to take make Hawaii a place where, once again, corporate campaign contributions will have the greatest voice among our elected representatives. This is antithetical to the very foundations of our democracy, and has been a plague on politics in America, sapping public interest and faith in government. Raising the corporate PAC contribution limit to \$25,000 is as bad as no limit at all. Legislative races in Hawaii have been decided for *far less* than that. There's no mistaking that many, if not all, politicians allow their decisions to be influenced by those who assisted their elevation to office. If that assistance comes in the form of monetary contributions the effects can be particularly pernicious. For three years now, a bill has been submitted, both stealthily and in the open, seeking to overturn the great advances made by Act 203, 2005. For three years advocates for good government and the people have fought tooth and nail to stop it in its tracks. It's time to move on and address the myriad of other issues that confront our State, not gaze to the past and attempt to bring back a practice that is detrimental to the electorate of Hawaii. I ask for the committee to **hold** this bill, HB 539, Relating to Campaign Finance, in order to keep corporate campaign donations from overwhelming the contributions of individual voters.

karamatsu3-Leanne

From: Eric Barker [islevegan@gmail.com]
Sent: Wednesday, February 11, 2009 10:54 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Eric Barker
islevegan@gmail.com
PO Box 75141
Honolulu, HI 96836

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539

This bill would raise the current cap of \$1,000 on the amount of money corporations can give directly out of their treasuries to PACs by 250%!

Corporations already have too much influence on the lawmaking process and have an unfair advantage over the general public.

Twenty one states have already banned these types of corporate contributions.

By raising cap and allowing a tsunami of corporate money to flood legislators' campaigns, Hawaii would become the first state in U.S. history to move backwards on this issue -- allowing more money -- instead of moving forwards by banning this money.

Moreover, this bill amends current law to make an exception for corporations, allowing them to donate 25 times as much to a PAC as an individual is allowed to donate. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizen in the political process.

It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

We urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

karamatsu3-Leanne

From: John Webster [jwebster@chaminade.edu]
Sent: Wednesday, February 11, 2009 2:30 PM
To: JUDtestimony
Cc: Dawn Webster
Subject: Comments on HB 539

Categories: Red Category

House JUD Hearing
Thursday February 12, 2009 at 2:05 p.m.
Room 325

To: Chair Jon Riki Karamatsu, Vice Chair Ken Ito, House Judiciary Committee

From: (John F. Webster, PhD)

Subject: Opposition to HB 539 Relating to Campaign Spending

Chair Karamatsu, Vice-Chair Ito, and members of the House Judiciary Committee, I wish to express opposition to HB 539.

For the past three years, Act 203 of the 2005 legislature has limited corporate contributions to political campaigns. I am aware that the interpretation of this law has not been resolved in the courts, but this bill would give Hawaii's corporations and companies significantly more political clout than they already have in comparison to the individual citizens of our state.

Allowing corporations to use any of its treasury to fund candidates through their PACs dilutes the impact of individuals on the political process and in a small state like Hawaii, could skew the results its citizens intended by bringing disproportionately larger amounts of money from the corporate sector to individual candidates.

This bill amends current law to allow corporate treasury funds to be donated to its PAC in an amount 25 times greater than any of its individual employees are allowed to contribute. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizens in the political process. And of course, the directors and officers of corporations have the same right as all other people to make such contributions as individuals.

Hawaii should demonstrate its commitment to keeping the political process open and fair by joining the 21 states that have already prohibited corporate contributions to PACs. I once had the opportunity to start and manage a PAC for one of the country's major accounting firms. The prohibitions in federal law against company contributions to PACs were not at all detrimental to the company's role in the political process.

I urge you to amend this bill to prohibit all corporate contributions to candidates for office, political parties and PACs (including its own noncandidate committee).

Sincerely,

John Webster

COMMITTEE ON JUDICIARY

House of Representatives
Thursday, February 12, 2009

H.B. 539, Relating to Campaign Contributions (Testimony in support with amendments)

Honorable Chair Karamatsu and Members of the Committee, my name is Cynthia Nakamura. I am a private attorney, representing corporations, sometimes helping them to comply with campaign contributions laws.

Currently, corporations are allowed to make contributions to candidates up to the limits imposed on individual contributors. This is a practice validated by the Second Circuit Court's decision in *Tavares v. Wong* in 2007. The Campaign Spending Commission also tolerates this practice, although it has filed an appeal.

This bill would limit the ability of a corporation to use its funds in the proper exercise of free speech. *Buckley v. Valeo* is the landmark U.S. Supreme Court case that held that corporations, like individuals and organizations, have First Amendment rights to free speech, including political activity. Recently, the Supreme Court in *Randall v. Sorrell* affirmed the *Buckley* holdings and ruled Vermont's statutes limiting campaign contributions and expenditures unconstitutional.

This bill, while couched in "contribution" language, is essentially a restriction on the ability of the corporation to engage in protected political activity or free speech by prohibiting the corporation from spending more than \$25,000 in political activity. This type of prohibition has been soundly rejected by the Supreme Court.

I would urge this committee to amend this bill to codify the current practice of allowing corporations to give up to the limits imposed on individuals. This would preserve the status quo, eliminate ambiguity and abide by the holdings in the *Tavares* case.

Thank you for the opportunity to testify.

karamatsu3-Leanne

From: H Richard Burson [deburson@hawaiiantel.net]
Sent: Wednesday, February 11, 2009 4:31 PM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

H Richard Burson
deburson@hawaiiantel.net
47-748 Hui Kelu St Apt 6
Kaneohe, HI 96744

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing to express my strong opposition to HB 539, which would raise the current cap of \$1,000 on the amount of money corporations can give directly out of their treasuries to PACs by 250%!

I oppose this bill because corporations already have far too much influence on the lawmaking process, and increasing the amount they can legally give would only make this situation worse. By raising the cap and allowing a tsunami of corporate money to flood legislators' campaigns, Hawaii would become the first state in U.S. history to move backwards on this issue -- allowing more money -- instead of moving forwards by banning this money. Twenty one states have already banned these types of corporate contributions.

Moreover, this bill amends current law to make an exception for corporations, allowing them to donate 25 times as much to a PAC as an individual is allowed to donate. Such an amendment is especially regressive following a national election that emphasized change and the greater inclusion of individual citizens in the political process.

It would be a shame if Hawaii were to become one of the 16 most regressive states in the union by moving against the tide: 21 states have prohibited corporate contributions to PACs, while an additional 13 states have more restrictive limits on corporate contributions to PACs than that proposed in HB 539!

I urge you to defeat this bill, or, better yet, to amend it to prohibit ALL direct corporate contributions to candidates for office, political parties and PACs.

karamatsu3-Leanne

From: Brien Hallett [brienhallett@yahoo.com]
Sent: Thursday, February 12, 2009 8:59 AM
To: Rep. Jon Karamatsu; Rep. Ken Ito; JUDtestimony
Subject: Strong opposition to HB 539

Jon Riki Karamatsu
Ken Ito
Committee on Judiciary

Brien Hallett
brienhallett@yahoo.com
2565 La'au Street
Honolulu, HI 96826

Thursday, February 12, 2009 02:05 PM

Strong opposition to HB 539

I'm writing in strong opposition of HB 539

Corporations have no need for increased influence over legislators. This type of influence has long been illegal at the Federal level. there is not reason to allow it at the State level.